THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.8713 of 2004
And
W.P.No.6496 of 2004

Date: 13.09.2007

W.P.8713 OF 2004

Between:

M/s R.K.Distilleries, Medchal, R.R.District,
Rep.by its partner
Sri Gurucharam Singh Bagga. ... Petitioner

And

1.The Government of A.P. rep.by its
Principal Secretary to the Government,
Revenue Dept. Hyderabad
And others. ... Respondents

W.P.No.6496 of 2004

M/s Kamal Winerries, Nandigama village,
Mahabubnagar District
Rep.by its licensee
Sri Nirannajanlal Aggarwal. ... Petitioner

And

1.The Government of A.P. rep.by its
Principal Secretary to the Government,

Revenue Dept. Hyderabad
And others. … Respondents

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W.P.No.8713 of 2004
And
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COMMON OR D E R;

Since common questions of fact and law arise in these two writ petitions, they are being disposed of by a common order.

2. On the ground that some people died by drinking whisky manufactured by the petitioners in a Bar, orders directing closure of the manufacturing units of the petitioners were passed, after suspending their licences. Alleging that their manufacturing units were closed at the behest of the second respondent, petitioners moved this court by way of writ petitions in which a learned Judge directed the second respondent to consider the representations to be submitted by the petitioners and pass appropriate orders thereon within three days from the date of receipt of the orders, by confining himself only to those aspects which led to the suspension of the licence of the petitioners. In pursuance of the said order petitioners submitted their representations to the second respondent, and the second respondent, by the orders impugned in these writ petitions, negatived their request for renewal, and imposed penalities of Rs.25,00,000/- and Rs.30,00,000/- respectively on the petitioners on the ground that the whiskies being

manufactured by them do not meet the specifications prescribed by the bureau of Indian standard. Questioning the said orders petitioners filed these writ petitions.

3. The contention of the learned counsel for the petitioners is that in view of the direction given by the learned Judge while disposing of the earlier writ petitions, to the 2nd respondent, to confine himself to those aspects which led to the suspension of the licence of the petitioners only, second respondent should confine himself only to those aspects, but second respondent without confining himself to those aspects only erroneously passed the orders impugned, on grounds other than those relied on by him for suspending the licences of the petitioner. It is his contention that inasmuch as the licences of the petitioners were suspended on the ground that the whisky consumed by the victims contained cyanide, and as it came to light, during investigation, that the victim did not die due to drinking of the whisky containing cyanide, but died due to mixing of cyanide in the whisky subsequently, and since the analysis reports also show that whiskies manufactured by the petitioners do not contain cyanide, and as the licences of the petitioners were not suspended on the ground that the whiskies manufactured by them contain less alcohal content, and as the second respondent had also failed to note that the petitioners paid lable fees, the orders impugned are liable to be set aside, because they are not in accordance with the directions issued in the earlier writ petition.

4. Heard the learned Government Pleader for Excise.

5. Since the court while disposing of the earlier writ petitions filed by the petitioners, gave a specific direction to the second respondent to confine himself only to those aspects which led to the suspension of the licences of

the petitioners, and since the licences of the petitioners were suspended only on the ground that whisky manufactured by them contained cyanide, and as the reports of the testing laboratories clearly show that the whiskies manufactured by the petitioners do not contain any cyanide, the orders impugned in these petitions, passed on grounds which are not taken into consideration for suspending the licence of the petitioners, have to be set aside, and the cases have to be remitted to the second respondent for fresh disposal according to the directions in the earlier writ petition.

6. Hence the writ petitions are allowed and the orders impugned in these writ petitions are set aside and the cases are remitted to the second respondent for fresh disposal strictly in accordance with the directions given in the earlier writ petition. While considering the representations of the petitioners, the second respondent also should consider either adjusting or refunding the licence fee and lable fee, paid by the petitioners prorata and pass the orders thereon, as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this order.

7. The writ petitions are disposed of accordingly. No order as to costs.

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C.Y.SOMAYAJULU,J

13.09.2007

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